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RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 7th September, 1974:—

BILL No. XXXIX OF 1974

A Bill further to amend the Delhi Municipal Corporation Act, 1957.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Delhi Municipal Corporation (Amendment) Act, 1974.

66 of 1957.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In section 2 of the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as the principal Act), after clause (*14*), the following clause shall be inserted, namely:—

'(*14A*) "Director of Municipal Elections" means an officer authorised by the Central Government to exercise the powers and perform the duties of the Director of Municipal Elections under this Act;'.

Amendment of section 3.

3. In section 3 of the principal Act, in sub-section (*6*), in the opening paragraph, the words "on a scale of one councillor for not more than twenty thousand of the population" shall be omitted.

Amendment of section 5.

4. In section 5 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) For the purposes of election of councillors, Delhi shall be divided into single-member wards in such manner that the population of each of the wards shall, so far as practicable, be the same throughout Delhi.".

Substitution of new sections for section 7.

5. For section 7 of the principal Act, the following sections shall be substituted, namely:—

General duties of Director of Municipal Elections.

"7. Subject to the superintendence, direction and control of the Central Government, the Director of Municipal Elections shall supervise the preparation, revision and correction of all electoral rolls and the conduct of elections, in the wards.

Electoral roll for every ward.

7A. For every ward there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act and the rules made thereunder.

Electoral registration officers

7B. (*1*) The electoral roll for each ward shall be prepared and revised by an electoral registration officer who shall be such officer of Government or the Corporation as the Central Government may designate or nominate in this behalf.

(*2*) To assist the electoral registration officer in the discharge of his functions under sub-section (*1*) the Director of Municipal Elections may employ such persons as he thinks fit.

Assistant electoral registration officers.

7C. (*1*) The Central Government may appoint one or more persons as assistant electoral registration officers to assist any electoral registration officer in the performance of his functions.

(*2*) Every assistant electoral registration officer shall, subject to the control of the electoral registration officer, be competent to perform all or any of the functions of the electoral registration officer.

Registration of electors.

7D. The persons entitled to be registered as electors in the electoral roll of a parliamentary constituency in Delhi as relates to the area comprised within a ward shall be entitled to be so registered in the electoral roll of that ward and the provisions in this behalf in the Representation of the People Act, 1950, shall apply to the registration of electors in the electoral roll of a ward as they apply to the registration of electors in the electoral roll of a parliamentary constituency. 43 of 1950.

Explanation.—In this section, in sub-section (*1*) of section 7E and in clause (*ag*) of sub-section (*1*) of section 31, the expression "parliamentary constituency" has the meaning assigned to it under the Representation of the People Act, 1950. 43 of 1950.

Preparation and revision of electoral rolls.

7E. (1) The electoral roll for each ward shall be prepared before each general election in such manner as may be prescribed by rules by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made for the purpose:

Provided that if the Central Government is satisfied that, instead of preparing a fresh electoral roll of a ward before a general election, it would be sufficient to adopt the electoral roll of the parliamentary constituency for the time being in force as relates to the ward, it may, by order, for reasons to be specified therein, direct that the electoral roll of the parliamentary constituency for the time being in force as relates to the ward shall, subject to any rules made for the purpose, be the electoral roll of the ward for the general election.

(2) The electoral roll prepared or adopted, as the case may be, under sub-section (1) shall—

(a) unless otherwise directed by the Central Government for reasons to be recorded in writing, be revised in the manner prescribed by rules by reference to the qualifying date before each bye-election to fill a casual vacancy in a seat allotted to the ward; and

(b) be revised in any year in the manner prescribed by rules by reference to the qualifying date if such revision has been directed by the Central Government:

Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said electoral roll shall not thereby be affected.

(3) Notwithstanding anything contained in sub-section (2), the Central Government may, at any time, for reasons to be recorded in writing, direct a special revision of the electoral roll for any ward or part of a ward in such manner as it may think fit:

Provided that the electoral roll for the ward as in force at the time of the issue of any such direction shall continue to be in force until the completion of the special revision so directed.

Explanation.—In this section, the expression "qualifying date" means such date as the Central Government may, by order, specify in this behalf.

Correction of entries in electoral roll.

7F. If the electoral registration officer, on an application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll for any ward—

(a) is erroneous or defective in any particular; or

(b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within such ward; or

(c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident within such ward or is otherwise not entitled to be registered in that roll,

the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Director of Municipal Elections in this behalf, amend, transpose or delete the entry:

Provided that before taking any action on the ground specified in clause (*a*) or clause (*b*) or any action under clause (*c*) on the ground that the person concerned has ceased to be ordinarily resident within such ward or that he is otherwise not entitled to be registered in the electoral roll of such ward, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

Inclusion of names in electoral roll.

7G. (*1*) Any person whose name is not included in the electoral roll of a ward may apply to the electoral registration officer for the inclusion of his name in that roll.

(*2*) The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein:

Provided that if the applicant is registered in the electoral roll of any other ward, the electoral registration officer shall inform the electoral registration officer of that other ward and that officer shall, on receipt of the information, strike off the applicant's name from that roll.

(*3*) No amendment, transposition or deletion of any entry shall be made under section 7F and no direction for the inclusion of a name in the electoral roll of a ward shall be given under this section after the last date for making nominations for an election in that ward and before the completion of that election.

Appeal.

7H. An appeal shall lie within such time and in such manner as may be prescribed by rules to the Director of Municipal Elections, from any order of the electoral registration officer under section 7F or section 7G.

Jurisdiction of civil courts barred.

71. No civil court shall have jurisdiction—

(*a*) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a ward; or

(*b*) to question the legality of any action taken by or under the authority of an electoral registration officer or of any decision given by the Director of Municipal Elections.".

Amendment of sections 11, 12, 14, 30 and 33.

6. In sub-section (*3*) of section 11, sub-section (*1*) of section 12, section 14, sub-section (*5*) of section 30 and sub-section (*3*) of section 33 of the principal Act, for the word "Commissioner", the words "Director of Municipal Elections" shall be substituted.

Amendment of section 31.

7. In section 31 of the principal Act, in sub-section (*1*),—

(*i*) in the opening paragraph, for the words "for the purpose of holding elections", the words "for the purpose of preparation, revision and maintenance of electoral rolls of wards and holding elections" shall be substituted;

(*ii*) for clause (*a*), the following clauses shall be substituted, namely:—

"(*d*) the particulars to be entered in the electoral rolls;

(*aa*) the preliminary publication of electoral rolls;

(*ab*) the manner in which and the time within which claims and objections as to entries in electoral rolls may be preferred;

(*ac*) the manner in which notices of claims or objections shall be published;

(*ad*) the place, date and time at which claims or objections shall be heard and the manner in which claims or objections shall be heard and disposed of;

(*ae*) the final publication of electoral rolls;

(*af*) the revision and correction of electoral rolls and inclusion of names therein;

(*ag*) the manner in which and the purpose for which the electoral roll of a parliamentary constituency may be used;

(*ah*) the correction of electoral rolls on change of extent or boundaries of wards;";

(*iii*) in clause (*k*), for the words "relating to elections", the words "relating to electoral rolls or elections" shall be substituted.

Amendment of section 90.

8. In section 90 of the principal Act,—

(*a*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) Of the two schedules referred to in sub-section (*1*), the first schedule shall deal with category A posts and the second schedule with category B and category C posts.";

(*b*) for sub-sections (*5*) and (*6*), the following sub-sections shall be substituted, namely:—

"(*5*) The appropriate authority may create for a period not exceeding six months any category C post:

Provided that no such post shall be continued beyond the said period without the previous approval of the Committee concerned;

(*6*) The Committee concerned may, on the recommendation of the appropriate authority, create for a period not exceeding six months any category A or category B post:

Provided that no such post shall be continued beyond the said period without the previous approval of the Corporation.";

(*c*) after sub-section (*7*), the following sub-section shall be inserted, namely:—

(*8*) In this section and in section 92—

(*i*) "category A post" means any post with a minimum monthly salary (exclusive of allowances) of not less than

seven hundred rupees and includes any other post which the Central Government may, having regard to the nature of the duties attached thereto, by order, declare to be a category A post:

Provided that no such declaration shall be made except after consultation with the Union Public Service Commission (hereafter in this Chapter referred to as "the Commission");

(*ii*) "category B post" means any post, not being a category A post, the monthly minimum salary of which (exclusive of allowances) is five hundred and fifty rupees or more and includes any other post which the Central Government may, having regard to the nature of the duties attached thereto, by order, declare to be a category B post;

(*iii*) "category C post" means any post, other than a category A or category B post.

Amendment of section 92.

9. In section 92 of the principal Act, in sub-section (*1*),—

(*a*) in clause (*a*) for the opening paragraph the following shall be substituted, namely,—

"to category A posts, shall vest—";

(*b*) for clause (*b*) the following clause shall be substituted, namely,—

"(*b*) to category B and category C posts, shall vest in the General Manager (Electricity) or the Commissioner, as the case may be:

Provided that the power of appointing officers and other employees immediately subordinate to the Municipal Secretary or the Municipal Chief Auditor to category B posts or category C posts shall vest in the Standing Committee:

Provided further that the Standing Committee may delegate to the Municipal Secretary or the Municipal Chief Auditor the power of appointing officers and other employees immediately subordinate to the said Secretary or Auditor, to category C posts.".

Amendment of section 96.

10. In section 96 of the principal Act,—

(*a*) in the opening paragraph for the words and brackets "or to any post carrying a minimum monthly salary of three hundred and fifty rupes or more (exclusive of allowance) shall be made except after consultation with the Union Public Service Commission (hereafter in this Chapter refered to as "the Commission")", the words, letter, brackets and figures "or to any category A post within the meaning of clause (*i*) of sub-section (*8*) of section 90 shall be made except after consultation with the Commission" shall be substituted;

(*b*) in the proviso, in clause (*d*), the word "or" shall be inserted at the end and after that clause the following clause shall be inserted, namely:—

"(*e*) to such other posts, as may, from time to time, be specified by the Central Government in consultation with the Commission.".

STATEMENT OF OBJECTS AND REASONS

Sub-section (6) of section 3 of the Delhi Municipal Corporation Act, 1957, provides that the number of councillors in the Corporation shall be determined on the scale of one councillor for not more than twenty thousand of the population. Under the first proviso to this sub-section the total number of councillors shall not exceed one hundred. As the population of the area falling within the jurisdiction of the Municipal Corporation of Delhi has increased beyond twenty lakhs, the criterion of one councillor for every twenty thousand of the population can no longer operate in view of the proviso aforesaid. Accordingly, it is considered necessary to do away with the requirement that there shall be one councillor for more than twenty thousand of the population. With a view to securing uniformity in representation on the basis of population, it is considered necessary to provide that, as far as practicable, the population of each ward to be delimited shall be the same.

2. Section 7 of the Act provides that the electoral roll for a municipal ward for the purpose of elections to the Municipal Corporation of Delhi shall be that part of the electoral roll for any parliamentary constituency as relates to the areas comprising in that ward. The next general elections to the Municipal Corporation of Delhi are due early in May, 1975. It will be necessary to revise the electoral roll before then. The Election Commission will, in the normal course, be taking up the revision of the electoral roll of the parliamentary constituencies only during 1975, in preparation for the next General elections to the Lok Sabha. It will not be possible for the Election Commission to undertake the revision of the electoral rolls specially for the purpose of the conduct of the elections to the Municipal Corporation of Delhi. Accordingly, it is proposed to make separate provision in the Act for the preparation and revision of the electoral rolls for elections to the Municipal Corporation of Delhi. At present, the responsibility for the conduct of elections to the Corporation vests in the Commissioner of the Corporation. It is considered that this responsibility and also the task of preparing and revising the electoral rolls for the municipal elections, from time to time, should be vested with advantage in an officer to be designated as the Director of Municipal Elections.

3. Sections 90, 92 and 96 of the Act provide for the appointment of officers and other employees to various categories of posts which have been distinguished on the basis of their minimum pays (exclusive of allowances). With the revision of pay scales it has become necessary to make suitable amendments to these sections.

4. The present Bill is intended to achieve the above objectives.

NEW DELHI;
The 4th September, 1974.

UMA SHANKAR DIKSHIT.

MEMORANDUM REGARDING DELEGATED LEGISLATION

New sections 7A, 7E and 7H proposed to be inserted in the Delhi Municipal Corporation Act, 1957 by clause 5 of the Bill read with the amendments to section 31 of the Act proposed in clause 7 of the Bill, seek to confer power on the Central Government to make rules to provide for or regulate matters for the purpose of preparation, revision and maintenance of electoral rolls of wards. These matters, *inter alia*, include the particulars to be entered in the electoral rolls, the manner in which and the time within which claims or objections as to entries in the electoral rolls may be preferred, the manner in which notices of claims or objections shall be published and the place, date and time at which claims or objections shall be heard and the manner in which claims or objections shall be heard and disposed of.

2. The matters with respect to which rules are proposed to be made, are matters of procedure and detail. The delegation of legislative power is, therefore, of a normal character.

B. N. BANERJEE,
Secretary-General.

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